



No. S1912098
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY

AND

IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, RSC 1985, c. B-3, AS AMENDED AND SECTION
39 OF THE *LAW AND EQUITY ACT*, RSBC 1996 c. 253, AS AMENDED

AND

IN THE MATTER OF THE RECEIVERSHIP OF DIONYMED BRANDS INC.

BETWEEN:

GLAS Americas LLC

PETITIONER

AND:

DionyMed Brands Inc.

RESPONDENT

NOTICE OF APPLICATION

Name of Applicant: FTI Consulting Canada Inc. ("**FTI**"), in its capacity as the court-appointed receiver of DionyMed Brands Inc. (the "**Receiver**")

To: Eaze Technologies, Inc.

And to: The Service List, a copy of which is attached hereto as **Schedule "A"**

TAKE NOTICE that an application will be made by the Receiver to the presiding judge at the Law Courts, 800 Smithe Street Vancouver, B.C. V6Z 2E1 on **January 16, 2020** at 9:00 a.m. for the order set out in Part 1 below.

Part 1: ORDERS SOUGHT

1. FTI, in its capacity as the court-appointed receiver and manager of all the assets, undertakings and property, including proceeds thereof (the "**Property**") of DionyMed Brands Inc. (the "**Company**"), seeks the following orders:

- (a) abridging the time for service of this notice of application and that further service of the notice of application, other than to those listed in the Service List attached hereto as Schedule A be dispensed with;
- (b) an order (the "**Sale Approval and Distribution Order**"), substantially in the form attached hereto as **Schedule "B"**, among other things (all capitalized terms as defined in the Sale Approval and Distribution Order):
 - (i) authorizing and directing the Receiver to enter into the sale transaction (the "**Transaction**") contemplated in the Asset Purchase Agreement dated January 3, 2020 (the "**Sale Agreement**") between the Receiver, Herban Industries, Inc., Herban Industries CA LLC, Herban Industries OR LLC, Herban Industries NJ LLC, Herban Industries NV LLC, Herban Industries CO LLC, Herban Industries MI LLC, on the one side, and Eaze Technologies, Inc., (the "**Purchaser**") and DYME US Acquisition SUB, LLC (the "**Purchaser Designee**") on the other;
 - (ii) approving the Transaction as being commercially reasonable;
 - (iii) authorizing and directing the Receiver to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance to the Purchaser of the Purchased Assets described in the Sale Agreement; and
 - (iv) authorizing and directing the Receiver to distribute, assign, transfer or pay, as may be applicable, to the first secured creditor of the Company, SP1 (defined below), or to another entity or person as directed by SP1, all of the consideration received by the Receiver from the sale of the Purchased Assets pursuant to the Sale Agreement;
- (c) an order that the First Affidavit of Victor Fong, including all exhibits thereto (the "**Confidential Fong Affidavit**"), be filed under seal pending further order of the Court;
- (d) an order substantially in the form of draft order attached hereto as **Schedule "C"**, among other things:
 - (i) approving the actions, conduct and activities of the Receiver as set out in the second report of the Receiver dated January 7, 2020 (the "**Second Report**"); and
 - (ii) approving the accounts of the Receiver and those of its counsel, Bennett Jones LLP; and,
- (e) such further and other relief as counsel may request and this Honourable Court may deem appropriate.

Part 2: **FACTUAL BASIS**

Overview

1. By an order (the "**Receivership Order**") pronounced by this Honourable Court on October 29, 2019, FTI was appointed the Receiver of the Company.
2. On November 26, 2019, on the application of the Receiver, the Court granted an order, among other things, approving bidding procedures (the "**Bidding Procedures**") for the sale of the Company's Property and authorizing, but not requiring, the Receiver to provide financing to Herban Industries Inc. ("**Herban Delaware**"), a U.S. subsidiary of the Company, to acquire the Gotham Green Debt and Security (as defined below).
3. The Receiver, with the assistance of the management of the Company, has completed the sale process contemplated by the Bidding Procedures and is making this application for the resulting Transaction to be approved by the Court.

Background of the Company

4. The Company continued into British Columbia pursuant to the *Business Corporations Act* (British Columbia). Through its direct and indirect subsidiaries, it operates a multi-state distribution and direct-to-consumer cannabis delivery platform in the United States.
5. The Company has been listed on the Canadian Securities Exchange under the symbol "DYME" since 2018.
6. The Company is a holding company. Through its wholly owned subsidiaries it generates revenue, primarily in the United States, by (a) manufacturing and processing cannabis products, (b) selling wholly-owned branded products, such as cannabis vaporiser cartridges, and (c) providing wholesale distribution and logistics management on behalf of cultivators, manufacturers and third-party brands.
7. The Company's primary assets are the capital stock of its subsidiaries. It wholly owns, directly and/or indirectly, the issued and outstanding shares or membership interests, as applicable, of the following entities:
 - (a) DionyMed Inc. ("**DMI**") – the Company's sole Canadian subsidiary;
 - (b) Herban Delaware;
 - (c) Gourmet Green Room, Inc ("**GGR**");
 - (d) Herban Industries CA LLC dba Rise Logistics ("**Herban CA**");
 - (e) Herban Industries OR LLC dba Winberry Farms ("**Herban OR**");
 - (f) Herban CA 2 LLC ("**Herban 2**");
 - (g) Herban Industries CO LLC ("**Herban CO**");

- (h) Herban Industries MI LLC ("**Herban MI**");
- (i) Herban Industries NJ LLC ("**Herban NJ**"); and
- (j) Herban Industries NV LLC ("**Herban NV**").

8. The Company also has an interest in HomeTown Heart ("**Hometown**") a California corporation, through a master services agreement (the "**Master Services Agreement**") and a modification and replacement agreement (the "**Modification and Replacement Agreement**"), and an assignment and option agreement (the "**Option Agreement**") whereby the Company can acquire all of the outstanding shares of HomeTown for a nominal sum following the occurrence of certain events.

9. DMI (and not the Company) is the employer to the employees in Canada, and the Receiver has been funding DMI to continue paying those employees during the receivership proceedings.

Creditors

10. The Company is indebted to a syndicate of lenders (the "**Lenders**") pursuant to a credit facility granted to the Company on January 16, 2019 (the "**Credit Facility**"). The syndicate of Lenders is now comprised of only one lender, SPI Credit Fund ("**SP1**"), although there have been, at other times, additional Lenders.

11. The funds drawn by the Company under the Credit Facility are secured by a first-ranking security interest over all or substantially all of the assets of the Company and certain of its subsidiaries and/or entities over which it has control.

12. Each of HomeTown, DMI, Herban Delaware, Herban CA, Herban OR, Herban NJ, Herban 2 and GGR have guaranteed the Company's obligations pursuant to the Credit Agreement and granted security in favour of GLAS Americas LLC (the "**Collateral Agent**") over all or substantially all of their assets in connection therewith.

13. The petitioner, GLAS Americas LLC, was appointed the Collateral Agent on behalf of the Lenders. GLAS USA LLC was appointed the Administrative Agent under the Credit Agreement on behalf of the Lenders.

14. As at October 15, 2019, the Company was indebted to the Lenders as follows (with interest and fees continuing to accrue):

- (a) USD \$24,078,106.80, being the principal amount of outstanding indebtedness under the Credit Facility, including the applicable prepayment premium;
- (b) USD \$610,971.36, being accrued and unpaid interest on the principal amount as of but excluding October 15, 2019; and
- (c) USD \$121,604.64, being the accrued and unpaid anniversary fee as of but excluding October 15, 2019, and all other fees and expenses and other amounts owing as obligations as of October 15, 2019.

15. In addition, the Company is indebted to Flow Capital Corp ("**Flow Capital**").
16. Flow Capital is the only other creditor with a security registration against the Company, as detailed in the First Report of the Receiver dated November 19, 2019 (the "**First Report**"). As set out in the First Report, the Receiver identified certain potential issues with Flow Capital's alleged security.
17. The Receiver reached a consensual resolution of this issue with Flow Capital. In summary, Flow Capital agreed to discharge its debt and security against any purchased assets in any transaction to be completed by the Receiver to allow a transaction to be effected free of Flow Capital's debt and security. To the extent any transaction created sufficient net proceeds to result in a distribution to Flow Capital in accordance with its priorities, Flow Capital would still be entitled to such a distribution to the extent it was determined its debt and security are valid. The Transaction will not result in any proceeds for Flow Capital.
18. According to the books and records of the Company, as of December 27, 2019, the Company owed its secured and unsecured creditors, including trade creditors, approximately USD \$55.0 million.

Update on Gotham Green Litigation

19. As set out in further detail in the Second Report of the Receiver dated January 7, 2020 (the "**Second Report**"), on November 26, 2019, this Court granted an order authorizing, but not requiring, the Receiver to provide financing to Herban Delaware to acquire the debt and security owed by the Company and Herban 2 to Gotham Green Fund (Q) II, L.P. ("**Gotham Q**") and Gotham Green Fund II, L.P. ("**Gotham Green**") pursuant to two Secured Convertible Demand Notes (the "**Secured Notes**") in the aggregate principal amount of \$2 million (USD) (all debt, including interest and fees accruing thereon, and security in connection with the Secured Notes are collectively referred to as the "**Gotham Green Debt and Security**").
20. Given the result of the sale process, the Receiver has determined that it is not necessary or desirable to directly or indirectly acquire the Gotham Green Debt and Security at this time.

Marketing and Sale Process of the Company's Property

21. The Receiver commenced a sale process for the Company's assets, in accordance with the Bidding Procedures approved by the Court, on or about October 31, 2019.
22. The Receiver conducted an extensive marketing process based on materials developed by the Receiver with the assistance of the Company's management. The Receiver developed a teaser letter (the "**Teaser Letter**") and a confidential information memoranda (the "**CIM**") detailing the opportunity for the purchase of the Property.
23. The Receiver sent in excess of 215 Teaser Letters detailing the offering to a list of potential bidders (the "**Potential Bidders**"), including both strategic and financial parties who, in the Receiver's reasonable professional judgment in consultation with the Company's management, may have had an interest in acquiring some or all of the assets offered for sale.

24. The Potential Bidders included, among others, global investment and venture capital firms, and companies and businesses operating in the medicinal and legal recreational cannabis industry.

25. The Receiver's efforts in marketing the Property included, in addition to the steps set out in the Second Report:

- (a) assisting in the creation of documents to populate the electronic due diligence data site;
- (b) negotiating confidentiality agreements with prospective purchasers;
- (c) working with the Company's management to prepare responses to significant and voluminous information requests from prospective purchasers conducting due diligence in accordance with the Bidding Procedures, and participating in many diligence calls;
- (d) working closely with U.S. counsel to understand and to be able to answer questions from potential purchasers regarding, the various cannabis regulatory considerations in connection with various potential transaction structures;
- (e) attending numerous meeting with management and prospective purchasers, primarily in New York City.

26. The marketing process was structured such that prospective purchasers would have sufficient time to consider the opportunity and allow an executable transaction to be completed in the near future, having regard to the Company's limited cash-flow liquidity.

27. As a result of the marketing efforts described above, thirty (30) prospective purchasers executed confidentiality agreements and received access to the Company's electronic due diligence data room.

28. In addition to the marketing efforts summarized above, as discussed in the First Report, the Company engaged Cormark Securities Inc. ("**Cormark**") in June 2019¹ as its strategic financial advisor to explore various strategic alternatives, including, among other things, a sale or merger of the Company. While that process did not result in an executable transaction, it did result in the Company being well exposed to the market of potential purchasers (over a period of five (5) months). The Receiver reached out to many of the parties that had shown interest in pursuing a transaction involving the Company's during the offering presented by Cormark.

Proposed Transaction

29. The Receiver's marketing process resulted in three (3) offers prior to the Bid Deadline, including an offer submitted by the Purchaser.

¹ Although an engagement letter with Cormark was executed in 2019, Cormark commenced working with the Company in April 2019.

30. Following the Bid Deadline, the Receiver, with the assistance of management, assisted the Purchaser with an extensive and lengthy due diligence exercise², while also negotiating the asset purchase agreement submitted.

31. The parties to the Sale Agreement are the Receiver, Herban Delaware, Herban CA, Herban OR, Herban NJ, Herban NV, Herban CO, Herban MI, the Purchaser and the Purchaser Nominee.

32. On June 4, 2019, Herban CA filed a complaint against Eaze in the Superior Court of San Francisco, Case No. 19-576443, alleging one count of violation of California Unfair Business Practices, Cal. Bus. & Prof. Code § 17200 (the "**Complaint**"). On September 18, 2019, Eaze filed a Cross-Complaint against Herban CA, Hometown Heart, and the Company for breach of contract, inducing breach of contract, tortious interference with prospective economic advantage, and violation of California unfair competition law (together with the Complaint and all associated pleadings and actions, the "**Herban Litigation**").

33. Pursuant to the Sale Agreement, at a high level, the Purchaser Designee will acquire (i) all assets of the Company, Herban Delaware and its subsidiaries that are party to the Sale Agreement (the "**Herban Parties**") pertaining to the operation of the Hometown Heart business, and (ii) the rights to any claims the Receiver, the Company, Herban Delaware and the Herban Parties have involving the Purchaser or Hometown Heart, including the Herban Litigation.

34. More specifically, the Purchaser Designee will acquire (all capitalized terms as defined in the Sale Agreement):

- (a) any and all rights to any Claims of any nature available to, or being pursued by the Company, the Receiver, Herban Delaware, and any of the Herban Parties, whether by way of any Legal Proceeding or otherwise, that involves in any manner the Purchaser, Hometown Heart or any of the Purchaser's or Hometown Heart's respective affiliates, or any of the Purchaser's or Hometown Heart's or any of their affiliates' respective employees, shareholders, directors, officers or representatives, including without limitation the Herban Litigation and all rights to litigate or seek any damages or equitable relief with respect thereto in any court, before any regulatory body or any other Tribunal, in any jurisdiction;
- (b) All Herban Assets and all assets (excluding any Contracts other than the Assumed Contracts) held by the Company, Herban Delaware or any of the Herban Parties, in each case to the extent such assets or Herban Assets pertain to the operation of the Hometown Heart business;
- (c) All rights and entitlements under any and all contracts between any of Herban Delaware, the Herban Subsidiaries or the Company (or any of the Company's subsidiaries or affiliates) and where the counterparty is Hometown Heart or its equity holders;
- (d) All books and records held for use or owned by the Company, Herban Delaware or any Herban Party pertaining to any financial operation related to the operation of

² Notwithstanding the Bidding Procedures, the original asset purchase agreement submitted by the Purchaser prior to the Bid Deadline was conditional on due diligence.

Hometown Heart, including without limitation all bank account passwords, log in and other similar operational information;

- (e) All equity interests, if any, in Hometown Heart held by any of the Company, Herban Delaware, the Herban Parties or any of their affiliates; and
 - (f) The Herban Books and Records pertaining to Hometown Heart
- (collectively, the "**Purchased Assets**").

35. Contemporaneously with closing of the Transaction, the Purchaser will assume the Master Services Agreement, the Option Agreement and the Modification and Replacement Agreement relating to ownership and operation of Hometown Heart.

36. A summary of the other key terms of the Transaction is as follows:

- (a) **Purchase Price:** The Receiver recommends that the purchase price be sealed for the reasons described below. The purchase price is made up of (i) Series C Preferred Shares of the Purchaser, (ii) the Warrants, and (iii) the assumption of certain liabilities. The purchase price is less than the amounts owing to SP1, as described below.

The Receiver proposes to direct that the Series C Preferred Shares and the Warrants be issued directly to SP1.

Any Transfer Taxes are the responsibility of and for the account of the Purchaser.

- (b) **Deposit:** The Purchaser has paid a deposit equal to USD \$400,000, which the Receiver acknowledges to be a lower percentage of the purchase price than is contemplated in the Bidding Procedures (the "**Deposit**"). The Deposit will be returned to the Purchaser on the earliest of (i) January 21, 2020 (such period between signing of the APA and January 21, 2020, the "**Deposit Period**") and (ii) the Closing. The Receiver agreed to the relatively modest deposit and the return mechanic after consulting with SP1, in recognition of the cash position of the Purchaser.

If, during the Deposit Period, the Closing has not occurred solely due to the Sale Agreement having been terminated by the Receiver as a result of a material violation or breach by the Purchaser of any agreement, covenant, representation or warranty of the Purchaser in the Sale Agreement, then the full amount of the Deposit may be retained by the Receiver as liquidated damages. If the Closing does not occur for any other reason, the full amount of the Deposit shall be returned by the Receiver to the Purchaser.

- (c) **Representations and Warranties:** Consistent with the standard terms of an insolvency transaction, i.e. on an "as is, where is" basis, with limited representations and warranties.

- (d) **Closing:** Two (2) Business Days after the Approval Order is granted, and no later than January 31, 2020.
- (e) **Material Conditions:** The material conditions are as follows:
- (i) The Purchaser's receipt of a release and waiver of all Claims by the Company, the Receiver, Herban Delaware, and each of the Herban Parties, against the Purchaser and Hometown Heart (and all of Purchaser's affiliates, and Hometown Heart's and Purchaser's respective subsidiaries, officers, directors and employees), including without limitation the Herban Litigation.
 - (ii) The Purchaser's receipt of evidence reasonably satisfactory to the Purchaser that all Encumbrances on (i) any and all of the Purchased Assets, or (ii) Hometown Heart or any of its assets, in each case held by or in favor of Flow Capital have been released.
 - (iii) The Purchaser's receipt of evidence reasonably satisfactory to the Purchaser that all Encumbrances on any and all of the Purchased Assets or Hometown Heart or any of its Assets, held by or in favor of the Receiver, have been released and that the Receiver has executed a release and waiver of all Claims by the Receiver against the Purchaser and Hometown Heart (and all of Purchaser's affiliates, and Purchaser's and Hometown Heart's respective subsidiaries, officers, directors and employees) with respect to any matters or Claims arising out of the pre-Closing period.
 - (iv) The Purchaser's receipt of an executed (by the Company's counsel of record) Judicial Council of California form CIV-110, dismissing, with prejudice the Herban Litigation.
 - (v) Delivery by the Receiver of executed signature pages from SP1, joining SP1 as a party to the Purchaser's Voting Agreement and IRA.
 - (vi) The Receiver shall have delivered a copy of a release and discharge made by the Administrative Agent and the Collateral Agent in favour of Purchaser, Hometown Heart and Purchaser Designee of the obligations of Hometown Heart under the Credit Agreement and its guarantee in favour of the Collateral Agent and a release of the security held by the Collateral Agent with respect to the assets of Hometown Heart and the other Purchased Assets.
 - (vii) The Eaze Note Conversion shall have been completed.
 - (viii) The applicable parties shall have entered into the Non-Dilutive Rights Agreement, which among other things, will provide SP1 with certain board observer rights with respect to the board of the Purchaser.

- (ix) The Approval and Sealing Order shall have been issued and entered by the Court and shall not have been stayed, vacated or appealed, and no order shall have been issued which restrains or prohibits the completion of the Transaction.
- (f) **Assumed Contracts:** The Master Services Agreement, the Option Agreement the Modification and Replacement Agreement, each as set out in Schedule 3 to the APA.
- (g) **Assumed Liabilities:** The liabilities of the Receiver, Herban Delaware and the Herban Parties, if any, arising from and after the Closing Time solely under the Assumed Contracts in respect of the period after the Closing Time and not related to or arising out of any breach or default occurring prior to the Closing.

Remaining Assets

37. All of the assets of the Company and its subsidiaries that are not Purchased Assets are "Excluded Assets" under the Sale Agreement.

38. The Receiver understands that certain of the subsidiaries may continue to operate in the ordinary course and others may be shuttered imminently. The Collateral Agent and all other applicable parties will maintain their existing claims and/or security over the various entities, subject to the releases required to be provided pursuant to the Sale Agreement.

39. The Receiver is assisting Management in order to try to sell the L.A. business and certain equipment in the Oakland facility, none of which is owned directly by the Company. SP1 is considering potential next steps with respect to the Oregon business.

The Receiver's Recommendations regarding the Transaction

40. The Receiver is of the view that the Transaction represents the best opportunity to recover value for the Purchased Assets in the circumstances, and supports the approval of the Sale Agreement. Among other reasons:

- (a) the sale process was conducted in accordance with the Court-approved Bidding Procedures;
- (b) through the implementation of the Court-approved Bidding Procedures, the Property was offered for sale in a transparent, orderly and timely process;
- (c) in the Receiver's opinion, given the nature of the Property offered for sale, the potential pool of interested purchasers was limited. However, the Receiver still contacted more than 215 prospective purchasers with the likely resources and potential interest in the purchase of the Property;
- (d) the Bidding Procedures were designed to provide prospective purchasers adequate time to evaluate the opportunity, and also to yield a transaction that would maximize value for the benefit of all of the Company's stakeholders;

- (e) the Property was marketed for sale on an unpriced basis which allowed its market value to be confirmed by the amount that qualified buyers were willing to pay in the current circumstances of the Company and reflecting current market conditions;
- (f) the Sale Agreement is on an "as is, where is" basis and is only subject to conditions that the Receiver has a high degree of confidence will be satisfied prior to Closing;
- (g) the Transaction represents the highest and best offer received during the sale process;
- (h) SP1, the principal secured creditor of the Company, who will be realizing a loss as a result of the Transaction, supports the Transaction; and
- (i) absent the Transaction, a protracted marketing period would be necessary. The Receiver does not have the cash, or access to cash, for any further marketing period, and the Receiver does not believe a further marketing process would result in a superior offer.

Sealing of the Confidential Fong Affidavit

41. The Receiver seeks an order filing the unredacted copy of the Sale Agreement, copies of all other offers received by the Receiver by the Biding Deadline, and a comparison of the offers, as exhibits to the Confidential Fong Affidavit to be filed under seal.

42. If the Transaction does not close for any reason, the Receiver is of the view that efforts to re-market the property may be impaired if the information set out in the exhibits to the Confidential Fong Affidavit are made public. In addition, certain of the information proposed to be sealed is commercially sensitive information of the Company and the Purchaser.

Proposed Distribution

43. The Receiver's Canadian counsel, Bennett Jones LLP ("**Bennett Jones**"), has provided an opinion on the validity and enforceability of the Collateral Agent's security against the Company. The opinion provides that, subject to the standard assumptions and qualifications contained therein, the Collateral Agent holds a valid and perfected security interest in the Company's assets as set out in its security documents. A copy of the security opinion will be made available to the Court upon request.

44. Other than the Receiver's Charge and the Receiver's Borrowing Charge (each as defined in the Receivership Order), the latter of which is in favour of SP1, the Receiver is not aware of any other claim that may rank in priority to the Collateral Agent.

45. Pursuant to paragraph 23 of the Receivership Order, the Receiver was authorized and empowered to borrow up to US\$8,000,000 under the Receiver's Borrowing Charge. US\$5,000,000 has been borrowed by the Receiver in order to fund the necessary operating costs of the Company and its subsidiaries, as well as pay professional fees.

46. The Receiver is seeking the Court's authority to distribute to SP1 (as the beneficiary of the Receiver's Borrowing Charge and the designee of the Administrative Agent and Collateral Agent)

all of the consideration the Receiver is entitled to under the APA. The proceeds of realization will be less than the amounts owing to SP1 in such capacities.

Professional fees of the Receiver and its counsel

47. The Receiver has filed two reports in this proceeding:
- (a) the First Report, dated November 19, 2019; and
 - (b) the Second Report, dated January 7, 2020.
48. On November 26, 2019, the First Report, and the actions and conduct of the Receiver as particularized therein, was approved by this Honourable Court.
49. In addition to the other activities of the Receiver described in this Notice of Application, the First Report, and Second Report, the Receiver's activities since its appointment include:
- (a) maintaining the Website, where all materials filed with the Court and all orders granted by the Court in connection with the receivership have been, and continue to be, made available in electronic form;
 - (b) carrying out its duties and responsibilities in accordance with the Receivership Order;
 - (c) corresponding extensively with key stakeholders in these proceedings, including SP1;
 - (d) responding to questions from certain bondholders and various unsecured creditors;
 - (e) discussions with landlords of the Company and its subsidiaries regarding this Receivership proceeding;
 - (f) carrying out the Bidding Procedures in accordance with the Order pronounced November 26, 2019;
 - (g) reviewing and commenting on a draft form of asset purchase agreement;
 - (h) reviewing all offers submitted in the sale process;
 - (i) negotiating and executing the Sale Agreement and all ancillary documents;
 - (j) negotiating (or assisting to negotiate) compromises of certain obligations of the Company and its subsidiaries in order to facilitate a transaction;
 - (k) negotiation a resolution to the Flow Capital dispute;
 - (l) paying receivership expenses;
 - (m) monitoring the businesses and operations of the Company's subsidiaries;

- (n) putting in place loan and security documents to effect intercompany loans from the Company to certain of its subsidiaries.

50. Pursuant to paragraph 21 of the Receivership Order, the Receiver and its counsel are to pass their accounts from time to time before this Court.

51. In accordance with paragraph 22 of the Receivership Order, throughout the course of the receivership proceedings, the fees and disbursements of the Receiver and its counsel have been paid from time to time. The Receiver and its counsel have maintained detailed records of the time and disbursements as they relate to this receivership proceeding.

52. The Receiver now seeks an order approving (i) the Second Report and the Monitor's activities as set out therein, (ii) the fees and disbursements of the Receiver for the period between October 30, 2019 to December 31, 2019, and (iii) the fees and disbursements of its counsel, Bennett Jones LLP, for the period between October 17, 2019 to December 31, 2019.

Part 3: LEGAL BASIS

Abridged Notice

1. The Sale Agreement was executed on January 3, 2020. The Receiver submits that the within Application is properly returnable on January 16, 2020 to ensure that the application can be heard, and the Transaction can be closed, within the timelines required by the Sale Agreement and the liquidity constraints of the Receiver.

Approval of the Transaction

2. Pursuant to the paragraph 2(I) of the Receivership Order, the Receiver may sell Property of the Company out of the ordinary course of business, with the approval of the Court.

3. A receiver must deal with the property of a debtor in a commercially reasonable manner. However, with respect to the providence of the proposed sale, the receiver's duty is not to obtain the best price but to do everything reasonably possible in the circumstances to obtain the best price.

Skyepharma PLC v. Hyal Pharmaceutical Corp., 1999 CanLII 15007 (ON SC), at para. 4
["*Skyepharma*"]

4. The court should assume that the receiver has acted properly in bringing a sale to the Court for approval unless it is otherwise clearly demonstrated by the party objecting to the sale. The court should have regard to the following factors:

- (a) whether the receiver made a sufficient effort to obtain the best price and did not act improvidently;
- (b) the best interests of all parties;
- (c) the efficacy and integrity of the process by which the receiver obtained offers; and
- (d) whether the working out of the process was fair.

Skyepharma, supra, at para. 3;
Royal Bank v. Soundair Corp., 1991 CanLii 2727 (ON CA) ["*Soundair*"]

5. The factors outlined by the Ontario Court of Appeal in *Soundair* are met in this case.
6. **Efforts to obtain best price and providence of the sale:** The Receiver conducted the marketing process in accordance with the Court-approved Bidding Procedures. The Receiver made a sufficient effort to obtain the best price that it could in the circumstances for the Purchased Assets. While the marketing process carried out by the Receiver was condensed over a period of approximately five weeks (between October 31, 2019 to December 9, 2019), the Receiver is of the view that the potential pool of purchasers for the Company's assets is limited. Furthermore, through the Company's previous engagement of Cormark, the Company had already been well exposed to the market.
7. The Receiver solicited offers from more than 215 potential purchasers that may have had an interest in acquiring some or all of the assets offered for sale. Thirty prospective purchasers conducted due diligence on the Company's assets in relation to the proposed sale, but only three offers were delivered to the Receiver. Of the three offers, the commercial terms of the offer submitted by the Purchaser which resulted in the Sale Agreement was superior. In the Receiver's reasonable opinion, the value to be paid to the Receiver pursuant to the Transaction represents the highest and best offer for the Purchased Assets.
8. **The best interests of the parties:** The Receiver is of the view that the Transaction is in the best interests of all stakeholders.
9. SP1, the principal secured creditor of the Company, who will be realizing a loss upon closing of the Transaction, supports the Transaction.
10. Furthermore, if the Sale Agreement does not close, a protracted marketing period would be necessary to re-market the Property of the Company for sale. The Receiver does not have the cash, or access to cash, for any further marketing period. The Receiver does not believe a further marketing process would result in a superior offer.
11. **The efficacy and integrity of the process resulting in the Transaction:** The sale and marketing process was conducted in accordance with the prior-approved Bidding Procedures. Through the implementation of the Bidding Procedures, the Property of the Company was offered for sale in a transparent, orderly and timely process. The bidding procedures contemplated that, if two or more qualifying bid were received by the Bid Deadline, the Receiver, in its discretion, could hold an Auction to obtain the best possible price. However, based on the bids received, the Receiver exercised its discretion not to hold an auction.
12. **The proposed Transaction is fair and reasonable:** The Receiver, in consultation with SP1 and the senior management of the Company have determined that the Sale Agreement is provident and commercially reasonable. The proposed Transaction represents the best value that can be recovered in respect of the Purchased Assets given the limited pool of buyers and the Company's current financial position.

Sealing of the Confidential Fong Affidavit

13. The Receiver seeks to file the Confidential Fong Affidavit under seal, which attaches as exhibits an unredacted copy of the Sale Agreement, copies of all offers received by the Receiver on the Bid Deadline, and a comparison of the offers.

14. The Supreme Court of Canada has stated that a sealing order can be granted where:

(a) such an order is necessary in order to prevent a serious risk to an important interest, including a commercial interest, in the context of litigation because reasonably alternative measures will not prevent the risk; and

(b) the salutary effects of the confidentiality order, including the effects on the right of civil litigants to a fair trial, outweigh its deleterious effects, including the effects on the right to free expression, which in this context includes the public interest in open and accessible court proceedings.

Sierra Club of Canada (Minister of Finance), 2002 SCC 41, at para 53.

15. If the Transaction does not close for any reason, the Receiver's opinion is that efforts to re-market the property may be impaired if the information sought to be filed under sealed was made public. Disclosure of the sensitive commercial information contained in the exhibits to the Confidential Fong Affidavit is likely to materially jeopardize the value that the Receiver might subsequently obtain in respect of the Property of the Company if the Receiver is required to again market the assets in the future.

16. Moreover, certain of the information proposed to be sealed is commercially sensitive information of the Company and the Purchaser.

17. The Receiver respectfully submits that it is appropriate for the Confidential Fong Affidavit to remain confidential until further Order of the Court and respectfully requests that the affidavit be sealed.

Approval of the Receiver's Activities and Accounts

18. Section 247(b) of the *Bankruptcy and Insolvency Act* provides, among other things, that the Receiver must deal with the property of an insolvent person in a commercially reasonable manner.

19. Through the implementation of the Bidding Procedures, the Property of the Company was offered for sale in a transparent, orderly and timely process. As outlined in the Second Report, the Receiver made all reasonable efforts to maximize the value received for the Purchased Assets.

20. The Receiver respectfully submits that the steps taken by the Receiver since its appointment, as outlined in the First Report, the Second Report and otherwise in this Notice of Application, are commercially reasonable.

21. The assessment of fees are in the discretion of the court. There is no fixed rate or tariff for determining the amount of compensation to pay a receiver or receiver's counsel. Similar to the

approach in assessing costs, in approving a receiver's accounts, a determination should be made as to whether the remuneration and disbursements incurred in carrying out the receivership were fair and reasonable.

Bank of Nova Scotia v. Diemer, 2014 ONSC 365, at para. 18

22. It is not necessary to go through the supporting documentation for the fees, line by line, in order to determine what the appropriate fees are. Nor is the court to second-guess the amount of time spent by a receiver unless it is clearly excessive or over-reaching.

Bank of Nova Scotia v. Diemer, 2014 ONSC 365, at para. 19

23. On an application to approve accounts of a receiver and of its legal counsel, the accounts should be verified by affidavit; should contain sufficient evidence to permit the Court to conclude that what was incurred for services rendered was at the standard rate of charges of the receiver and of the receiver's counsel; and the accounts should provide a sufficient description of the services rendered to permit the Court to determine whether the liability for the fees was "properly...made or incurred".

Redcorp Ventures Ltd. (Re), 2016 BCSC 188, at paras. 26 and 32

24. Courts will consider the following non-exhaustive factors in assessing the reasonableness of the receiver's fees:

- (a) the nature, extent and value of the assets;
- (b) the complications and difficulties encountered;
- (c) the degree of assistance provided by the debtor;
- (d) the time spent;
- (e) the receiver's knowledge, experience and skill;
- (f) the diligence and thoroughness displayed;
- (g) the responsibilities assumed;
- (h) the results of the receiver's efforts; and
- (i) the cost of comparable services when performed in a prudent and economical manner.

Bank of Nova Scotia v. Diemer, 2014 ONCA 851 at para. 33

25. Similar considerations apply in relation to the assessment of the accounts of counsel to the receiver.

26. The Receiver submits that its fees are fair and reasonable in the circumstances and in light of the significant time and effort expended by the Receiver in performing the activities detailed in the First Report and the Second Report to the Court. In this respect, the Receiver submits:

- (a) that its professional fees and disbursements were properly incurred;
- (b) the work completed by the Receiver was delegated to the appropriate professionals in FTI with the appropriate seniority and appropriate hourly rates;
- (c) the Receiver's fees in this matter are consistent with the fees charged by other insolvency firms of a similar size for the work of a similar nature and complexity; and
- (d) the services were performed by the Receiver in a prudent and economical manner.

27. Furthermore, the Receiver submits that the fees and disbursements of its counsel are fair and reasonable as:

- (a) the fees and disbursements of its counsel were properly incurred;
- (b) the work completed by its counsel was delegated to the appropriate professionals within the firm with the appropriate seniority and hourly rates;
- (c) the fees of its counsel are consistent with the market for similar firms with the capacity to handle a file of comparable size and complexity;
- (d) the invoices were provided to the Receiver when rendered, and all have been approved by the Receiver; and
- (e) the services were performed by the Receiver's respective counsel in a prudent and economical manner.

28. In further support of this application, the Receiver will rely on:

- (a) The *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended;
- (b) Rule 8-1 and 8-5 of the *Supreme Court Civil Rules of Court*;
- (c) the inherent jurisdiction of this Honourable Court.

Part 4: MATERIAL TO BE RELIED ON

1. The Receiver will rely on:

- (a) the pleadings and materials taken and filed herein;
- (b) the First Report of the Receiver, dated November 19, 2019;
- (c) the Second Report of the Receiver, dated January 7, 2020;
- (d) the Affidavit of Victor Fong, made January 2020 (to be filed under seal);

- (e) the Affidavit of Sean Zweig, made January 6, 2020;
- (f) the Affidavit of Jeffrey Rosenberg, made January 7, 2020;
- (g) such further and other material as counsel may advise and the Court may permit.

The time estimated by the Receiver for the hearing of the within application is 30 minutes.

This application is NOT within the jurisdiction of a master.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application,

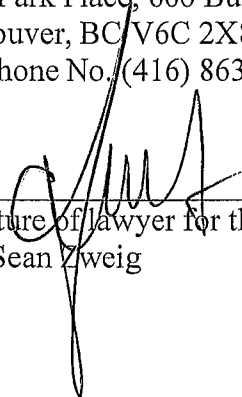
- (a) file an application response in Form 33,
- (b) file the original of every affidavit, and of every other document, that
 - (i) you intend to refer to at the hearing of this application, and
 - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
 - (i) a copy of the filed application response;
 - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
 - (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7 (9).

Applicant's address for service:

BENNETT JONES LLP
Barristers and Solicitors
2500 Park Place, 666 Burrard Street
Vancouver, BC V6C 2X8
Telephone No. (416) 863.1200
N/A

Fax number address for service :

Date: January 7, 2020



Signature of lawyer for the Receiver
(for) Sean Zweig

To be completed by the court only:

Order made

in the terms requested in paragraphs of Part 1 of this notice of application

with the following variations and additional terms:

.....
.....
.....

Date:

[dd/mmm/yyyy]

.....
Signature of Judge Master

Appendix**THIS APPLICATION INVOLVES THE FOLLOWING:**

- discovery: comply with demand for documents
- discovery: production of additional documents
- other matters concerning document discovery
- extend oral discovery
- other matter concerning oral discovery
- amend pleadings
- add/change parties
- summary judgment
- summary trial
- service
- mediation
- adjournments
- proceedings at trial
- case plan orders: amend
- case plan orders: other
- experts

GLAS Americas LLC v DionyMed Brands Inc.

SERVICE LIST

As of January 6, 2020

<p>Stikeman Elliott LLP Suite 1700, 666 Burrard Street Vancouver, British Columbia V6C 2X8</p> <p>Attention: Maria Konyukhova Angela Crimeni</p> <p>Email: mkonyukhova@stikeman.com acrimeni@stikeman.com</p> <p><i>Counsel for SP1 Credit Fund</i></p>	<p>Cassels Brock & Blackwell LLP Suite 2100, Scotia Plaza, 40 King Street West Toronto, Ontario M5H 3C2</p> <p>Attention: Joseph Bellissimo</p> <p>Email: jbellissimo@casselsbrock.com</p> <p><i>Counsel for DionyMed Brands Inc.</i></p>
<p>FTI Consulting Canada Inc. TD South Tower, 79 Wellington Street West Toronto Dominion Centre Suite 2010, PO Box 104 Toronto, Ontario, M5K 1G8</p> <p>Attention: Jeffrey Rosenberg Craig Munro</p> <p>Email: jeffrey.rosenberg@fticonsulting.com craig.munro@fticonsulting.com</p> <p><i>Receiver</i></p>	<p>Bennett Jones LLP 666 Burrard Street, Suite 2500 Vancouver, British Columbia V6C 2X8</p> <p>Attention: David Gruber Sean Zweig Victor Fong</p> <p>Email: gruberd@bennettjones.com zweigs@bennettjones.com fongv@bennettjones.com</p> <p><i>Counsel for the Receiver</i></p>
<p>Torkin Manes LLP 151 Yonge Street, Suite 1500 Toronto, Ontario M5C 2W7</p> <p>Attention: Jeffrey Simpson</p> <p>Email: jsimpson@torkinmanes.com</p> <p><i>Counsel for Flow Capital Corp.</i></p>	<p>Blake, Cassels & Graydon LLP 595 Burrard Street P.O. Box 49314 Suite 2600, Three Bentall Centre Vancouver British Columbia V7X 1L3</p> <p>Attention: Claire Hildebrand Chris Burr</p> <p>Email: claire.hildebrand@blakes.com</p>

	<p>chris.burr@blakes.com</p> <p><i>Counsel for the Ad Hoc Bondholders</i></p>
<p>AllOver Media LLC 16355 36th Ave N Suite 700 Plymouth, MN 55426</p> <p>Attention: Chad Dudycha and Dale Kopel</p> <p>Email: Chad.dudycha@allovermedia.com Dale.kopel@allovermedia.com</p>	<p>Fox Rothschild LLP Campbell Mithun Tower 222 S. Ninth St. Suite 2000 Minneapolis MN 55402-3338</p> <p>Attention: Mark P. Schneebeck</p> <p>Email: mschneebeck@foxrothschild.com</p> <p><i>Counsel for AllOver Media LLC</i></p>
<p>Allen Attorney Group 2121N. California Blvd, Suite 290 Walnut Creek, CA 94596</p> <p>Attention: Kevin R. Allen</p> <p>Email: kevin@allenattorneygroup.com</p> <p><i>Counsel for DeWinter Group, Inc.</i></p>	<p>Borden Ladner Gervais 1200 Waterfront Centre 200 Burrard St. P.O Box 48600 Vancouver, BC, V7X 1T2</p> <p>Attention: Lisa Hiebert</p> <p>Telephone: 604-632-3425</p> <p>Email: LHiebert@blg.com</p> <p><i>Counsel for Innovative Industrial Properties Inc., and IIP-CA 3LP</i></p>
<p>Silverman Law Firm, LLC 1512 Larimer St Suite 600 Denver, CO 80202</p> <p>Attention: David Silverman</p> <p>Email: david@dsilvermanlaw.com</p> <p><i>Counsel for Suzuki Enterprises, Inc. a Colorado Corporation doing business as CFOshare</i></p>	<p>Dentons Canada LLP 77 King Street West, Suite 400 Toronto, ON M5K0A1</p> <p>Attention: John Salmas Cindy Cheuk</p> <p>Email: john.salmas@dentons.com cindy.cheuk@dentons.com</p> <p><i>Counsel for GLAS Americas LLC</i></p>
<p>MM Esperanza 2 LLC c/o MM Acquisition Co., LLC 9301 Wilshire Blvd., Ste. 425</p>	<p>Hanson Bridgett 425 Market Street, 26th Fl. San Francisco, CA 94105</p>

<p>Beverly Hills, CA 90210 Attention: Cameron Wald Email: CWald@mmacus.com</p>	<p>Attention: Jonathan S. Storper Email: JStorper@HansonBridgett.com <i>Counsel for MM Esperanza 2 LLC</i></p>
<p>Sheppard, Mullin, Richter & Hampton LLP 333 South Hope Street, 43rd Floor Los Angeles California, 90071 Attention: Theodore A. Cohen Email: tcohen@sheppardmullin.com <i>Counsel for Tristan Strauss</i></p>	

SCHEDULE 'B' TO NOTICE OF APPLICATION

No. S1912098
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY

AND

IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, RSC 1985, c. B-3, AS AMENDED AND SECTION
39 OF THE *LAW AND EQUITY ACT*, RSBC 1996 c. 253, AS AMENDED

AND

IN THE MATTER OF THE RECEIVERSHIP OF DIONYMED BRANDS INC.

BETWEEN:

GLAS Americas LLC

PETITIONER

AND:

DionyMed Brands Inc.

RESPONDENT

ORDER MADE AFTER APPLICATION

APPROVAL AND DISTRIBUTION ORDER

BEFORE THE HONOURABLE

)
)
)

January 16, 2020

MR. JUSTICE SEWELL

THE APPLICATION of FTI Consulting Canada Inc., in its capacity as Court-appointed receiver and manager (the "**Receiver**") of all of the assets, undertakings and property of DionyMed Brands Inc. (the "**Debtor**"), coming on for hearing at Vancouver, British Columbia, on the 16th day of January, 2020; AND ON HEARING Sean Zweig, counsel for the Receiver, and those other counsel listed on **Schedule "A"** hereto, and no one else appearing although duly served; AND UPON READING the material filed, including the Receiver's Second Report to the Court

dated January 7, 2020 (the "**Second Report**") and Affidavit #1 of Victor Fong made January 7, 2020 and filed under seal (the "**Confidential Fong Affidavit**"); AND PURSUANT TO the British Columbia Supreme Court Rules and the inherent jurisdiction of this Honourable Court;

THIS COURT ORDERS AND DECLARES THAT:

Service

1. The time for service of the Notice of Application for this Order and supporting materials be and are hereby abridged and deemed good and sufficient such that the Notice of Application is properly returnable today, and service upon any interested party other than those parties on the service list maintained by the Receiver in this proceeding is hereby dispensed with.

Approval of Transaction

2. The sale transaction (the "**Transaction**") contemplated by the Asset Purchase Agreement dated January 3, 2020 (the "**Sale Agreement**") between the Receiver, Herban Industries, Inc., Herban Industries CA LLC, Herban Industries OR LLC, Herban Industries NJ LLC, Herban Industries NV LLC, Herban Industries CO LLC, Herban Industries MI LLC, on the one side, and Eaze Technologies, Inc., (the "**Purchaser**") and DYME US Acquisition SUB, LLC (the "**Purchaser Designee**"), on the other, a copy of which is attached as Exhibit A to the Confidential Fong Affidavit is hereby approved, and the Sale Agreement is commercially reasonable. The execution of the Sale Agreement by the Receiver is hereby authorized and approved *nunc pro tunc*, and the Receiver is hereby authorized and directed to take such additional steps and execute such additional documents (the "**Additional Documents**") as may be necessary or desirable for the completion of the Transaction and for the conveyance to the Purchaser Designee of the assets described in the Sale Agreement (the "**Purchased Assets**"). Without limiting the foregoing, the Receiver, as receiver of all of the shares in the capital of Herban Industries, Inc. ("**Herban Delaware**"), is hereby authorized to cause Herban Delaware (i) to execute, deliver and perform its obligations under the Sale Agreement and the Additional Documents, and (ii) in its capacity as sole manager and/or member, as applicable, of Herban Industries CA LLC, Herban Industries OR LLC, Herban Industries NJ LLC, Herban Industries NV LLC, Herban Industries CO LLC and Herban Industries MI LLC (collectively, the "**Herban Subsidiaries**"), to authorize and direct and otherwise cause each such Herban Subsidiary to execute, deliver and perform its obligations under the Sale Agreement and the Additional Documents. The Receiver, as receiver of all of the shares in the capital of Herban Delaware, is hereby authorized to authorize and direct the board of directors of Herban to take the actions that are necessary or desirable to cause the execution, delivery and performance of the Sale Agreement and the Additional Documents by Herban Delaware and the Herban Subsidiaries.

Vesting of Property

3. Upon delivery by the Receiver to the Purchaser of a certificate substantially in the form attached as **Schedule "B"** hereto (the "**Receiver's Certificate**"), all of the Receiver's and

the Debtor's right, title and interest in and to the Purchased Assets described in the Sale Agreement shall vest absolutely in the Purchaser Designee in fee simple, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of this Court dated ~~October 29, 2019~~; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* of British Columbia or any other personal property registry system (all of which are collectively referred to as the "**Encumbrances**"); and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. The Receiver is hereby authorized and directed to distribute, assign, transfer or pay, as may be applicable, to SP1 Credit Fund or to another entity or person as directed by SP1 Credit Fund, all of the consideration to be received by the Receiver from the sale of the Purchased Assets pursuant to the Sale Agreement.
5. The Receiver is to file with the Court a copy of the Receiver's Certificate forthwith after delivery thereof to the Purchaser (or its nominee).
6. Pursuant to Section 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act* or Section 18(10)(o) of the *Personal Information Protection Act* of British Columbia, the Receiver is hereby authorized and permitted to disclose and transfer to the Purchaser Designee all human resources and payroll information in the company's records pertaining to the Debtor's past and current employees. The Purchaser Designee shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.
7. The Receiver, with the consent of the Purchaser, shall be at liberty to extend the Closing Date to such later date as those parties may agree without the necessity of a further Order of this Court, providing that the Closing Date occurs on or before February 28, 2020.

Miscellaneous Matters

8. Notwithstanding:
 - (a) these proceedings;
 - (b) any applications for a bankruptcy order in respect of the Debtor now or hereafter made pursuant to the *Bankruptcy and Insolvency Act* and any bankruptcy order issued pursuant to any such applications; and
 - (c) any assignment in bankruptcy made by or in respect of the Debtor,

the vesting of the Purchased Assets in the Purchaser Designee pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute or be deemed to be a transfer at undervalue, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the *Bankruptcy and Insolvency Act* or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

9. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body, wherever located, to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.
10. The Receiver or any other party have liberty to apply for such further or other directions or relief as may be necessary or desirable to give effect to this Order.
11. Service of this Order shall be deemed good and sufficient by:
 - (a) serving the same in accordance with the Receivership Order on:
 - (i) the persons listed on the service list created in these proceedings;
 - (ii) any other person served with notice of the application for this Order;
 - (iii) any other parties attending or represented at the application for this Order;and
 - (b) posting a copy of this Order on the Receiver's website at <http://cfcanada.fticonsulting.com/DionyMed/>

and service on any other person is hereby dispensed with.

12. Endorsement of this Order by counsel appearing on this application, except for counsel for the Receiver, is hereby dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

Signature of Sean Zweig
Lawyer for the Receiver

BY THE COURT

REGISTRAR

Schedule A – List of Counsel

<u>Party Represented</u>	<u>Name of Counsel</u>

Schedule B – Form of Receiver's Certificate

No. S1912098
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY

AND

IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, RSC 1985, c. B-3, AS AMENDED AND SECTION 39 OF THE *LAW AND EQUITY ACT*, RSBC 1996 c. 253, AS AMENDED

AND

IN THE MATTER OF THE RECEIVERSHIP OF DIONYMED BRANDS INC.

BETWEEN:

GLAS Americas LLC

PETITIONER

AND:

DionyMed Brands Inc.

RESPONDENT

RECEIVER'S CERTIFICATE

RECITALS:

A. By Order dated October 29, 2019, FTI Consulting Canada Inc. was appointed receiver, without security, of all of the assets, undertakings and property of DionyMed Brands Inc. (the "**Debtor**"), including all proceeds thereof (in such capacity, the "**Receiver**");

B. Pursuant to an order of the Court dated January 16, 2020 (the "**Approval and Vesting Order**"), the Court approved the sale of the Purchased Assets to Eaze Technologies, Inc. (the "**Purchaser**") and DYME US Acquisition SUB, LLC (the "**Purchaser Designee**"), providing for the vesting in the Purchaser Designee of all of the Receiver's and the Debtor's, right, title and interest in and to the Purchased Assets (as defined in the Sale Agreement), which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming: (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; and (ii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, capitalized terms have the meaning set out in the Approval and Vesting Order.

THE RECEIVER CERTIFIES THE FOLLOWING:

1. The Purchaser has paid and satisfied, and the Receiver has received, the Purchase Price for the Purchased Assets in accordance with the Sale Agreement; and
2. The Transaction has been completed to the satisfaction of the Receiver.

This Certificate was delivered by the Receiver to the Purchaser on [DATE], 2020.

FTI Consulting Canada Inc.,
solely in its capacity as receiver and
manager of the assets, undertakings
and property of DionyMed Brands
Inc., and not in its personal capacity

Per: Jeffrey Rosenberg
Senior Managing Director

SCHEDULE 'C' TO NOTICE OF APPLICATION

No. S1912098
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY

AND

IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, RSC 1985, c. B-3, AS AMENDED AND SECTION
39 OF THE *LAW AND EQUITY ACT*, RSBC 1996 c. 253, AS AMENDED

AND

IN THE MATTER OF THE RECEIVERSHIP OF DIONYMED BRANDS INC.

BETWEEN:

GLAS Americas LLC

PETITIONER

AND:

DionyMed Brands Inc.

RESPONDENT

ORDER MADE AFTER APPLICATION
(Fee Approval)

BEFORE)	THE HONOURABLE)	January 16, 2020
)	MR. JUSTICE SEWELL)	
))	
))	

ON THE APPLICATION of FTI Consulting Canada Inc. ("**FTI**"), in its capacity as the court-appointed receiver (the "**Receiver**") of all of the assets, undertakings and property of DionyMed Brands Inc. (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor pursuant to the receivership order issued on October 29, 2019 (the "**Receivership Order**") in the within proceedings; AND ON READING the Receiver's Second Report to the Court dated January 7, 2020 (the "**Second Report**"), the First Affidavit of Jeffrey Rosenberg made January 7, 2020, and the First Affidavit of Sean Zweig made January 6, 2020 (all collectively, the "**Fee Affidavits**"); AND ON HEARING from counsel for the Receiver and other counsel as listed on **Schedule "A"** hereto, and no one else appearing, although duly served;

THIS COURT ORDERS AND DECLARES THAT:

Service

1. The time for service of the Notice of Application herein and supporting materials be and are hereby abridged and deemed good and sufficient such that the Notice of Application is properly returnable today, and service upon any interested party other than those parties on the service list maintained by the Receiver in this proceeding is hereby dispensed with.

Approval of Receiver's Actions

2. The actions, conduct, and activities of the Receiver, as set out in the Second Report, are hereby approved.

Approval of accounts

3. The accounts of the Receiver and those of its counsel, Bennett Jones LLP, as set out in the Fee Affidavits are hereby approved.

Miscellaneous

4. Endorsement of this Order by counsel appearing on this application other than counsel for the Receiver is hereby dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER.

Signature of Sean Zweig
Lawyer for the Receiver

BY THE COURT

REGISTRAR

Schedule "A" – List of Counsel

<u>Counsel Name</u>	<u>Party Represented</u>